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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,711	12/31/2003	Eddie Shook McLeese	McLeese.E-01	1375

22197 7590 01/27/2005

GENE SCOTT; PATENT LAW & VENTURE GROUP  
3140 RED HILL AVENUE  
SUITE 150  
COSTA MESA, CA 92626-3440

EXAMINER
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SHRIVER II, JAMES A

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/750,711

Applicant(s)

MCLEESE, EDDIE SHOOK

Examiner

J. Allen Shriver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 11-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5-7,9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/10/2004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 8 and 11-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 3, 2005.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ondrish, Jr. (US Patent 5,950,754).** Ondrish, Jr. discloses a skateboard apparatus (10) comprising a platform (58) having a forward end, an opposing rearward end, a top surface and an undersurface; the platform engaged with a pair of wheel trucks (14,16), at least one means for driving (149), and a power source (156); one of the wheel trucks providing a single wheel, and the other of the wheel trucks providing a pair of wheels, the at least one means for driving engaged mechanically with the single wheel and electrically with the electrical power source for driving the single wheel in moving the apparatus on a support surface in a forward direction. Ondrish, Jr. does not disclose wherein the single wheel is positioned on the forward end and the pair of wheels is positioned on the rearward end. Mere rearrangement of the front and rear wheel

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assemblies in Ondrish, Jr. would have been obvious to a person of ordinary skill in this art, because the shifting of the position would not have modified the operation of the device. *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). The motivation for switching the front and rear wheel assemblies would be to allow the skateboard to have a front wheel drive.

Regarding claim 2, Ondrish, Jr. discloses a frame (12) mounted to the platform, the frame supporting the pair of wheel trucks.

Regarding claim 4, Ondrish, Jr. discloses a means for actuating, the actuating means positioned terminally on an electrical cable and electrically interconnected with the driving means and the power source, enabling power control to the driving means as actuated by a hand of a rider.

4. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ondrish, Jr. (US Patent 5,950,754) as applied to claims 1-2 above, and further in view of Lin (US Patent 6,796,394 B1).** Ondrish, Jr. discloses a skateboard apparatus as set forth above, but does not disclose a means for actuating, the actuating means positioned proximate the top surface and electrically interconnected with the driving means and the power source, enabling power control to the driving means as actuated by a foot of a rider. Lin discloses a skateboard having a means for actuating, the actuating means (70) positioned proximate the top surface and electrically interconnected with the driving means and the power source, enabling power control to the driving means as actuated by a foot of a rider. At the time of the invention, it would have been obvious to a person of ordinary skill in this art to provide an actuating means positioned proximate the top surface and electrically interconnected with the driving means in Ondrish, Jr.

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in view of Lin. The motivation for doing so would have been to allow the rider to operate the control of the device with his foot.

***Allowable Subject Matter***

5. Claims 5-7 and 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record in the accompanying PTO Form 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Allen Shriver whose telephone number is (703) 308-1224. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris P. Ellis can be reached on (703) 305-0168. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

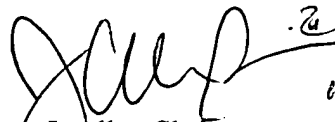
Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Or faxed to: (703) 305-3597 or (703) 305-7687 (for formal communications intended for entry. (703) 746-3852 (for informal communications directly to the Examiner).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Friday, January 21, 2005

 6/21/05  
J. Allen Shriver  
Examiner  
Art Unit 3618

JAS